

STATE PERSONNEL BOARD CALENDAR



FEBRUARY 7, 2006

LOS ANGELES, CALIFORNIA

State of California

Memorandum

DATE: January 27, 2006

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD – Executive Office

SUBJECT: Notice and Agenda for the **February 7, 2006**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on February 7, 2006, at **The Westin Los Angeles Airport Hotel, located at 5400 West Century Boulevard – Logan Room, Los Angeles, California 90045**, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the February 7, 2006, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 52, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.



Allison Sanjo
Secretariat's Office
Attachment



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location –

**The Westin Los Angeles Airport Hotel
5400 West Century Boulevard
Logan Room
Los Angeles, CA 90045**

Teleconference – 320 West 4th Street²
Los Angeles, California, Suite 620

Closed Session Location –

**The Westin Los Angeles Airport Hotel
5400 West Century Boulevard
Logan Room
Los Angeles, CA 90045**

Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

FULL BOARD MEETING – FEBRUARY 7, 2006

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

FULL BOARD MEETING AGENDA³

FEBRUARY 7, 2006
9:00 a.m. – 11:00 a.m.
(or upon completion of business)

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND ARE SUBJECT TO CHANGE

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. – 9:30 a.m.)

- 1. ROLL CALL**
- 2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**
- 3. REPORT OF THE CHIEF COUNSEL – Elise Rose**
- 4. NEW BUSINESS**

Items may be raised by Board Members for scheduling and discussion for future meetings.

- 5. REPORT ON LEGISLATION – Sherry Hicks**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

- 6. ELECTION OF VICE PRESIDENT**

In accordance with Article VII, Section 2(b), the five-member Personnel Board (Board) will elect one of its members to serve as the Vice President for the calendar year 2006.

³ The Agenda for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

(9:30 a.m. – 10:00 a.m.)

7. **INFORMATIONAL BRIEFING** – In response to data trends indicated in the Annual Census of Employees in the State Civil Service report, State Personnel Board staff will provide strategies and options for addressing specific areas of concern within an Equal Employment Opportunity framework.
- California State Personnel Board Staff

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(10:00 a.m. – 10:30 a.m.)

8. **EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

9. **EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

10. **DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

11. **PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,
United States District Court, Northern District of California.

12. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

13. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:30 a.m. – Onwards)

**14. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF
FEBRUARY 21, 2006, IN SACRAMENTO, CALIFORNIA**

BOARD ACTIONS:

15. **ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF JANUARY 6, 2005**
16. **EVIDENTIARY CASES** - (See Case Listings on Page 9 -13)
17. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION** - (See Agenda Page 17-18)
18. **NON-EVIDENTIARY CASES** - (See Case Listings on Page 13-15)
19. **NON-HEARING CALENDAR**

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

- A. **Board items presented by State Personnel Board or Department of Personnel Administration to establish, revise or abolish classifications, alternate range criteria, etc.**

PHYSICIAN AND SURGEON, CORRECTIONAL FACILITY (INTERNAL MEDICINE/FAMILY PRACTICE)

The California Department of Corrections and Rehabilitation (CDCR) proposes the establishment of a new class titled, Physician and Surgeon, Correctional Facility (Internal Medicine/Family Practice). The new class will meet the federal requirement that CDCR utilize physicians that are board eligible and/or board certified with a specialty in internal or family medicine. The new class will require a six-month probationary period which is consistent with the existing Physician and Surgeon, CF, class. CDCR will continue to use the Physician and Surgeon, CF, so that it retains the ability to test for and appoint individuals with other, needed medical specialties.

PROPOSED AMENDMENT TO TITLE 2, CALIFORNIA CODE OF REGULATIONS § 433.1 – VOLUNTARY TRANSFERS BETWEEN CLASSES – Bargaining Unit 10 Employees

The California Association of Professional Scientists (CAPS) has requested changes to Title 2, California Code of Regulations (2CCR) § 433.1 – Voluntary Transfers Between Classes – Bargaining Unit 10 Employees, to delete the classes of Land and Water Use Analyst, Associate Land and Water Use Analyst, Textile Chemist I, and Textile Chemist II from the rule.

- B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following classifications which have been vacant for more than two years and have been designated Footnote 24, which specifies that a classification will be abolished when it becomes vacant.

NONE PRESENTED

20. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

21. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF, COUNTY SUPPORT BRANCH, SYSTEMS OF CARE DIVISION

The Department of Mental Health proposes to allocate the above position to the CEA category. The Chief, County Support Branch is responsible for strategies and policies supporting critical consultation, technical assistance and training functions to counties covering a wide spectrum of local mental health services programs.

CHIEF, INVESTIGATIONS BRANCH, COMMUNITY CARE LICENSING DIVISION

The Department of Social Services proposes to allocate the above position to the CEA category. The Chief, Investigations Branch is responsible for managing and directing the activities of the centralized Investigations Branch responsible for meeting divisional investigative goals.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

ASSISTANT DEPUTY DIRECTOR, INFORMATION SERVICES DIVISION

The Department of Social Services has withdrawn their proposal to allocate the above position to the CEA category effective January 10, 2006.

CHIEF LEARNING OFFICER, TRAINING AND PROGRAM DEVELOPMENT

The California Department of Correction and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective January 10, 2006.

DIRECTOR, NON-TAX DEBT COLLECTION BUREAU

The Franchise Tax Board's proposal to allocate the above position to the CEA category has been approved effective January 10, 2006.

DEPUTY COMMISSIONER, CREDIT UNION DIVISION

The Department of Financial Institutions' proposal to allocate the above position to the CEA category has been disapproved effective January 10, 2006.

22. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

23. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE PRESENTED

24. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

25. BOARD ACTIONS ON SUBMITTED ITEMS – (See Agenda - Page 16)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on this agenda under Evidentiary Cases.

A D J O U R N M E N T

16. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) GARY GARFINKEL, CASE NO. 98-3128RBA

Appeal for determination of back salary, benefits and interest

Classification: Deputy Attorney General IV

Department: Department of Justice

Proposed decision rejected July 13, 2005

Transcript prepare

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Oral argument heard November 1, 2005, San Diego

Case ready for decision by FULL Board

B. CASES PENDING

ORAL ARGUMENTS

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

This case has been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

- (1) TROY ALLEN, CASE NO. 05-2105**
Appeal from dismissal
Classification: Caltrans Equipment Operator II
Department: Department of Transportation
- (2) ERICK FESTA, CASE NO. 05-0891**
Appeal from two working days suspension
Classification: Motor Carrier Specialist I
Department: California Highway Patrol
- (3) KATHLEEN MOYA, CASE NO. 05-0066**
Appeal from dismissal
Classification: Correctional Counselor I
Department: Department of Corrections and Rehabilitation
- (4) CHARLES O'NEILL-JONES, CASE NO. 05-2123**
Appeal from non-punitive termination
Classification: Worker, Tunnels and Tubes
Department: Department of Transportation
- (5) AL WOERLY, CASE NO. 04-2392**
Appeal from five percent reduction in salary for 12 months
Classification: Supervisor of Academic Instruction
Department: Department of Corrections and Rehabilitation

Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

- (1) **AARON FOUCH, CASE NO. 05-2526P**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (2) **JIUN-YIH LIU, CASE NO. 05-0706P & 05-1374P**
Appeal from 60 days suspension & whistleblower retaliation complaint
Classification: Library Technical Assistant I
Department: California State Library
- (3) **MICHAEL STONUM, CASE NO. 05-2534P**
Appeal from whistleblower retaliation
Classification: Battalion Chief
Department: Department of Forestry and Fire Protection

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

(1) RONALD FRANKLYN, CASE NO. 05-2105A

Appeal from 20 working days suspension

Classification: Officer

Department: California Highway Patrol

Proposed decision rejected December 20, 2005

Pending transcript

(2) ALEJANDRO GILL, CASE NO. 05-0054RA

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision rejected January 6, 2006

Pending transcript

(3) RICK OCHOA, CASE NO. 04-2373B

Appeal for determination of back salary, benefits and interest

Classification: Youth Correctional Officer

Department: Department of the Youth Authority

Proposed decision rejected January 24, 2006

Pending transcript

(4) EDUARDO PEREZ, CASE NO. 05-0763A

Appeal from five percent reduction in salary for six months

Classification: Parole Agent I (Adult Parole)

Department: Department of Corrections

Proposed decision rejected November 1, 2005

Pending transcript

Pending oral argument February 7-8, 2006, Los Angeles

Oral argument continued

(5) ERNEST PITMAN, CASE NO. 05-1591A

Appeal from dismissal

Classification: Motor Vehicle Field Representative

Department: Department of Motor Vehicles

Proposed decision rejected December 6, 2005

Pending transcript

Pending oral argument March 7-8, 2006, Sacramento

- (6) **RICHARD QUADRELLI, CASE NO. 05-1039A**
Appeal from dismissal
Classification: Caltrans Maintenance Supervisor
Department: Department of Transportation

Proposed decision rejected December 6, 2005
Pending transcript
Pending oral argument March 7-8, 2006, Sacramento

18. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

- (1) **DAVID BATTEN, CASE NO. 04-1848**
Classification: Associate Information Systems Analyst
Department: Department of Transportation
Issue: Whether appellant was properly withheld for not meeting the Minimum Qualifications
- (2) **LISA CAMPBELL, CASE NO. 04-0937**
Classification: Licensing Registration Examiner
Department: Department of Motor Vehicles
Issue: Suitability; failed to provide additional information requested by department.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
 MINIMUM QUALIFICATIONS
 MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
 RULE 212 OUT OF CLASS APPEALS
 VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

(1) ROBERT RIPANI, CASE NOS. 04-2197, 04-2435, 04-2483, 05-1138, 05-1697

Classification: Supervisor

Department: Board of Equalization

Issue: The charging party requests charges be filed against the charged parties for violations of various subsections of Government Code section 19572.

PETITIONS FOR REHEARING CASES

- (2) **DAVID LIN, CASE NO. 05-0414P**
Classification: Cadet, California Highway Patrol
Department: California Highway Patrol
Issue: Whether SPB erred in upholding the withhold taken by the CHP.

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

6. GARY GARFINKLE, CASE NO. 98-3128RBA

Appeal for determination of back salary, benefits and interest. Deputy Attorney General IV. Department of Justice. (Oral Argument heard November 1, 2005)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *



1

(Cal. 02/07/06;)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

There is no written legislative report at this time. I will give a verbal presentation on any legislative action that has taken place that will be of interest to the Board.

Please contact me directly should you have any questions or comments regarding any bills that you may have an interest in. I can be reached at (916) 653-0453.


Sherry Hicks
Director of Legislation

STATE PERSONNEL BOARD

NON-HEARING CALENDAR

RE: BOARD DATE FEBRUARY 7, 2006

(Cal; 02/07/06)

MEMO TO : STATE PERSONNEL BOARD

FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division

SUBJECT : Non-Hearing Calendar Items for Board Action

The staff has evaluated these items and recommend the following actions be taken:

**A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR
DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH,
REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE
CRITERIA, ETC.**

PAGE

**PHYSICIAN AND SURGEON, CORRECTIONAL
FACILITY (INTERNAL MEDICINE/FAMILY PRACTICE)**

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The California Department of Corrections and Rehabilitation (CDCR) proposes the establishment of a new class titled, Physician and Surgeon, Correctional Facility (Internal Medicine/Family Practice). The new class will meet the federal requirement that CDCR utilize physicians that are board eligible and/or board certified with a specialty in internal or family medicine. The new class will require a six-month probationary period which is consistent with the existing Physician and Surgeon, CF, class. CDCR will continue to use the Physician and Surgeon, CF, so that it retains the ability to test for and appoint individuals with other, needed medical specialties.

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**PROPOSED AMENDMENT TO TITLE 2,
CALIFORNIA CODE OF REGULATIONS § 433.1 –
VOLUNTARY TRANSFERS BETWEEN CLASSES
– Bargaining Unit 10 Employees**

The California Association of Professional Scientists (CAPS) has requested changes to Title 2, California

Code of Regulations (2CCR) § 433.1 – Voluntary Transfers Between Classes – Bargaining Unit 10 Employees, to delete the classes of Land and Water Use Analyst, Associate Land and Water Use Analyst, Textile Chemist I, and Textile Chemist II from the rule.

- B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following classifications which have been vacant for more than two years and have been designated Footnote 24, which specifies that a classification will be abolished when it becomes vacant.

NONE PRESENTED

(Cal; 02/07/06)

TO: STATE PERSONNEL BOARD

FROM: Phyllis Bonilla
Staff Personnel Management Analyst
Classification and Compensation Division
Department of Personnel Administration

REVIEWED BY: Josie Fernandez
Program Manager
Classification and Compensation Division
Department of Personnel Administration

SUBJECT: Proposed establishment of a new class of Physician and Surgeon, Correctional Facility (Internal Medicine/Family Practice)

SUMMARY OF ISSUES:

In April 2001, *Plata v. Davis* was filed in federal court contending that the California Department of Corrections and Rehabilitation (CDCR) was in violation of the Eighth and Fourteenth amendments of the United States Constitution by providing inadequate medical care to prison inmates. The lawsuit was settled in June 2002 by way of a stipulation for Injunctive Relief that was approved by the Federal Court. The state entered into a settlement agreement, committing to significant changes in the delivery of health care services to inmates. As CDCR physicians provide primary care to inmates and youthful offenders, the federal courts have ordered that CDCR utilize physicians that are board eligible and/or board certified with a specialty in internal or family medicine. Based on discussion with the State Personnel Board (SPB), the Department of Corrections and Rehabilitation proposes the establishment of a new Physician and Surgeon, Correctional Facility (Internal Medicine/Family Practice) classification to be used in the institutions and clinics.

CONSULTED WITH:

Jennifer Nolan, Department of Corrections and Rehabilitation
Debra Santiago, Department of Corrections and Rehabilitation
Jennifer Roche, State Personnel Board
Karen Coffee, State Personnel Board
Dwight W. Winslow, M.D., Department of Corrections and Rehabilitation
Phyllis Bonilla, Department of Personnel Administration

In accordance with the terms of the Department of Personnel Administration/Union of American Physicians and Dentists (UAPD) contract, DPA has notified the union in writing of this proposal.

CLASSIFICATION CONSIDERATIONS:

(See attached proposal.)

RECOMMENDATIONS:

1. That the class of Physician and Surgeon, Correctional Facility (Internal Medicine/Family Practice) be established, and the proposed specification for the class as shown in this calendar be adopted effective February 7, 2006.

B. CLASSIFICATION CONSIDERATIONS

BACKGROUND

1. Provide some historical perspective about the organizational setting of the subject class(es) and the needs that this request addresses.

In April 2001, *Plata v. Davis* was filed in federal court contending that the California Department of Corrections and Rehabilitation (CDCR) was in violation of the Eighth and Fourteenth amendments of the United States Constitution by providing inadequate medical care to prison inmates. Some specific examples of key issues raised in the case include (1) the lack of nationally recognized medical guidelines for managing inmates with chronic illness, (2) inappropriate and inconsistent medical follow-up visits, (3) inadequate number of registered nurses, and (4) poor coordination between medical and custody staff.

The state entered into a settlement agreement, committing to significant changes in the delivery of health care services to inmates. Generally, the settlement agreement focuses on improving inmate access to health care, as well as the quality of health care services provided in the prisons. Under the agreement, independent court-appointed medical experts monitor the implementation of the agreement, and periodically report to the court on the state's progress in complying with the agreement.

As CDCR physicians provide primary care services to inmates and youthful offenders, the federal courts ordered that CDCR utilize those physicians with a specialty in Internal or Family Medicine to better meet the medical needs of inmates and youthful offenders. To be in compliance, the State Personnel Board recommended the establishment of a new classification. Therefore, the CDCR is proposing to establish a new classification of Physician and Surgeon, Correctional Facility (CF) [Internal Medicine/Family Practice].

CLASSIFICATION CONSIDERATIONS

2. What classification(s) does the subject class(es) report to?

The Physician and Surgeon, CF (Internal Medicine/Family Practice) will be under the general direction of a health care manager.

3. Will the subject class(es) supervise? If so, what class(es)?

The Physician and Surgeon, CF (Internal Medicine/Family Practice) may clinically supervise a small ancillary staff.

4. What are the specific duties of the subject class(es)?

The Physician and Surgeon, CF (Internal Medicine/Family Practice) examines patients and diagnoses their illness and prescribes and administers medical treatment; performs or assists in performing major and minor surgical operations; supervises pre- and post-operative care of surgical cases; treats sexually transmitted diseases and communicable diseases; orders laboratory examinations and analyses, x-rays, and special diets; writes prescriptions; makes rounds of the wards and reviews reports, records, and general progress of patients; instructs and clinically supervises mid-level practitioners; interacts to provide medical care with nurses, technicians, and personnel assigned for special training; attends and participates in staff conferences for the discussion of the surgical, medical, and mental condition of various patients and their final diagnoses and treatment; as assigned, makes routine psychiatric examinations and administers psychiatric treatment; prepares reports and related correspondence; serves periodically as officer-of-the-day; maintains order and supervises the conduct of persons committed to the California Department of Corrections and Rehabilitation; prevents escapes and injury by these persons to themselves, others, or to property; maintains security of working areas and work materials; inspects premises and searches inmates or youthful offenders for contraband, such as weapons or illegal drugs.

5. What is the decision-making responsibility of the subject class(es)?

A Physician and Surgeon, CF (Internal Medicine/Family Practice) is a licensed and highly skilled health care professional, trained to provide patient evaluation, education, health care services, medical care and guidance.

6. What would be the consequence of error if incumbents in the subject class(es) did not perform their jobs? (Program problems, lost funding, public safety compromised, etc.)

Physician and Surgeon, CF (Internal Medicine/Family Practice) assess and manage the health care needs of inmates and youthful offenders. Physician and Surgeon, CF (Internal Medicine/Family Practice) diagnose

and treat medical conditions and identify problems that require consultation with the health care manager or the Chief Physician and Surgeon, CF. Failure to do so may result in inmates and youthful offenders not receiving adequate medical services, which could lead to other medical/health problems or death.

7. What are the analytical requirements expected of incumbents in the subject class(es)?

Physician and Surgeon, CF (Internal Medicine/Family Practice) are expected to perform physical and mental status examinations utilizing diagnostic techniques; evaluate physical signs and symptoms; interprets results of tests; and establishes diagnoses.

8. What are the purpose, type, and level of contacts incumbents in the subject class(es) make?

The Physician and Surgeon, CF (Internal Medicine/Family Practice) is in contact with inmates and youthful offenders to assess and manage their health care needs. Incumbents also need to maintain good working relationships with other members of the health care team (i.e., mid-level practitioners, registered nurses, and other clinicians).

NEED FOR NEW CLASS (if necessary)

9. For New classes only: what existing classes were considered and why were they not appropriate?

The State currently has a generalist Physician and Surgeon, CF classification; however, given the Federal Court's recommendations for clinician experience, it no longer meets all the needs of the CDCR. Establishment of the proposed new parenthetical classification of Physician and Surgeon, CF (Internal Medicine/Family Practice) will provide CDCR with a candidate pool of internal and family medicine physicians and will facilitate the provision of medical care to inmates and youthful offenders.

MINIMUM QUALIFICATIONS

10. What are the proposed or current minimum qualifications of the subject class(es), and why are they appropriate? (Include inside and outside experience patterns.)

In order to practice medicine in California, each Physician and Surgeon must pass a rigorous licensing examination before being licensed by the Medical Board of California or the California Board of Osteopathic

Examiners. In addition, a specialty in Internal Medicine or Family Practice requires examination by the appropriate specialty board. Therefore, CDCR is proposing the following minimum qualifications:

Possession of the legal requirements for the practice of medicine in California as determined by the Medical Board of California or the California Board of Osteopathic Examiners.

and:

Possession of a valid certificate issued by the American Board of Family Medicine (or Osteopathic Family Medicine) or the American Board of Internal Medicine (or Osteopathic Internal Medicine); or admissibility to an internal medicine or family medicine Specialty examination as evidenced by a written statement from the Secretary of the American Board of Family Medicine or the American Board of Internal Medicine.

PROBATIONARY PERIOD

☒ Six Months

11. If a probationary period other than six months is proposed, what is the rationale?

It is proposed that the probationary period be six months. Incumbents in the proposed new class will be exposed to most work assignments during the six-month period and will provide sufficient time for the supervisors to effectively evaluate job performance.

STATUS CONSIDERATIONS

12. What is the impact on current incumbents?

See #13.

13. Will current employees move by examination, transfer, reallocation, split-off, etc.? Explain rationale.

Current incumbents in the Physician and Surgeon, CF, classification who meet the minimum qualifications of the proposed Physician and Surgeon, CF (Internal Medicine/Family Practice) classification are eligible for transfer into the new class or may remain in the current class.

CONSULTED WITH

14. In addition to the departmental contacts listed on the cover sheet, list the names and affiliations of persons who were consulted during the development of this proposal.

N/A

CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

Schematic Code: SB39

Class Code: 9263

Established:

Revised: --

Title Changed: --

PHYSICIAN AND SURGEON, CORRECTIONAL FACILITY (INTERNAL MEDICINE/FAMILY PRACTICE)

DEFINITION

Under general direction, in a State correctional facility in the California Department of Corrections and Rehabilitation, to perform assigned medical work in a State institution or clinic; to maintain order and supervise the conduct of inmates or youthful offenders; to protect and maintain the safety of persons and property; and to do other related work.

DISTINGUISHING CHARACTERISTICS

Employees in this class may be employed in the California Department of Corrections and Rehabilitation in any of the State correctional facilities or clinics.

Incumbents are experienced physicians and surgeons. Working in small institutions or clinics, they may be responsible for planning, directing, and performing all phases of the medical services provided and for making professional decisions regarding surgery and general medical work. They may clinically supervise a small ancillary staff.

In larger institutions, employees in this class work under the general direction of a medical officer of higher level. They are responsible for directing or performing an assigned phase of the medical services of such an institution and for making professional decisions. They instruct medical personnel engaged in caring for patients and may clinically supervise a small

ancillary staff. They may administer prescribed psychiatric examinations and treatments.

TYPICAL TASKS

Examines patients and diagnoses their illness and prescribes and administers medical treatment; performs or assists in performing major and minor surgical operations; supervises pre- and post-operative care of surgical cases; treats sexually transmitted diseases and communicable diseases; orders laboratory examinations and analyses, x-rays, and special diets; writes prescriptions; makes rounds of the wards and reviews reports, records, and general progress of patients; instructs and clinically supervises mid-level practitioners, nurses, technicians, and personnel assigned for special training; attends and participates in staff conferences for the discussion of the surgical, medical, and mental condition of various patients and their final diagnoses and treatment; as assigned, makes routine psychiatric examinations and administers psychiatric treatment; prepares reports and related correspondence; serves periodically as officer-of-the-day; maintains order and supervises the conduct of persons committed to the California Department of Corrections and Rehabilitation; prevents escapes and injury by these persons to themselves, others, or to property; maintains security of working areas and work materials; and inspects premises and searches inmates or youthful offenders for contraband, such as weapons or illegal drugs.

MINIMUM QUALIFICATIONS

Possession of the legal requirements for the practice of medicine in California as determined by the Medical Board of California or the California Board of Osteopathic Examiners.

and

Possession of a valid certificate issued by the American Board of Family Medicine (or Osteopathic Family Medicine) or the American Board of Internal Medicine (or Osteopathic Internal Medicine); or admissibility to an internal medicine or family medicine Specialty examination as evidenced by a written statement from the Secretary of the American Board of Family Medicine or the American Board of Internal Medicine.

KNOWLEDGE AND ABILITIES

Knowledge of: Methods and principles of internal or family medicine and skill in their application; methods and principles of surgery and skill in their application; recent developments in internal or family medicine and surgery; hospital organization

and procedure; psychiatric social work, physical therapy, and the various rehabilitation therapies; and methods of diagnosing and treating mental disorders.

Ability to: Examine, diagnose, and treat physical and mental disorders; interpret laboratory analyses and x-rays; direct the work of ancillary medical personnel; instruct in the principles and practices of general medicine and surgery; prepare and supervise the preparation of case histories; and analyze situations accurately and adopt an effective course of action.

SPECIAL PERSONAL CHARACTERISTICS

Empathetic understanding of patients in a State correctional facility or clinic; willingness to work in a State correctional facility; alertness; keenness of observation; tact; patience; and emotional stability.

SPECIAL PHYSICAL CHARACTERISTICS

Persons appointed to this position must be reasonably expected to have and maintain sufficient strength, agility, and endurance to perform during stressful (physical, mental, and emotional) situations encountered on the job without compromising their health and well-being or that of their fellow employees or that of inmates or youthful offenders.

Assignments may include sole responsibility for the supervision of inmates or youthful offenders and/or the protection of personal and real property.

ccd/sks

(Cal; 02/07/06)

TO: STATE PERSONNEL BOARD

FROM: Elizabeth Montoya, Manager, Policy Division

REVIEWED BY: Carol Ong, Manager, Policy Division
Laura Aguilera, Assistant Executive Officer

SUBJECT: Proposed Amendment to Title 2, California Code of Regulations § 433.1 – Voluntary Transfers Between Classes - Bargaining Unit 10 Employees

SUMMARY OF ISSUES

The California Association of Professional Scientists (CAPS) has requested changes to Title 2, California Code of Regulations (2CCR) § 433.1 – Voluntary Transfers Between Classes – Bargaining Unit 10 Employees, to delete the classes of Land and Water Use Analyst, Associate Land and Water Use Analyst, Textile Chemist I, and Textile Chemist II from the rule.

BACKGROUND/CONSIDERATIONS

2CCR § 433.1 restricts the transfer of employees into Bargaining Unit (BU) 10 rank and file classes, unless individuals meet the minimum educational requirement, as identified in the respective classification specifications. The rule also provides for the exemption of certain designated classifications from the transfer restriction.

Since the adoption of the rule, several classes have been revised and/or retitled: Land and Water Use Analyst, Associate Land and Water Use Analyst, Textile Chemist I, and Textile Chemist II. Specifically, the minimum qualifications for these classes were modified to require a four-year college degree for all levels within the respective classification series, and deleted the alternate pattern allowing work experience to be substituted for the required education. As such, these classes should be removed from the exemptions listing.

The primary user departments of the BU 10 classes have been notified of the proposed changes to the rule. Comments received expressed no opposition to the proposed amendments.

RECOMMENDATION

It is recommended that the five-member State Personnel Board, pursuant to its authority under Government Code § 18701, adopt the proposed amendments to 2CCR § 433.1 as shown in the current calendar.

Attachment: Proposed Amendments to 2CCR § 433.1.

**REGULATIONS GOVERNING EMPLOYEE TRANSFERS
TO BARGAINING UNIT 10 CLASSIFICATIONS**

For this amendment, text added to the regulation is indicated by underline and text deleted from the regulation is indicated by strikethrough.

**Title 2. Administration
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1. General Civil Service Regulations
Article 19. Transfer**

§433.1. Voluntary Transfers Between Classes -- Bargaining Unit 10 Employees.

Unless specifically prohibited pursuant to Section 430 appointing powers may allow employees to voluntarily transfer between classes when the employee possesses any licenses, certificates, or registration required in the "to" class provided that either:

(a) The salary range of the "to" class is exactly the same or any amount lower than that of the "from" class; and, for any class assigned to State Bargaining Unit 10, excluding the following listed classes, the employee shall meet the minimum education requirement as identified in the respective class specification: Energy Analyst, Energy Resources Specialist I and II; Hazardous Materials Specialist, Associate Hazardous Materials Specialist and Senior Hazardous Materials Specialist (Technical); Associate Energy Specialist (Efficiency) and Energy Commission Specialist I, II, and III (Efficiency); Associate Energy Specialist (Forecasting) and Energy Commission Specialist I, II, and III (Forecasting); Associate Energy Specialist (Technology Evaluation and Development) and Energy Commission Specialist I, II, and III (Technology Evaluation and Development); Assistant and Associate Geologist and Senior Geologist (Specialist); Associate Geophysicist; Health and Safety Program Specialist I, II, and III; ~~Land and Water Use Analyst and Associate Land and Water Use Analyst~~; Assistant and Associate Meteorologist; Senior Meteorologist, Water Resources; Microbiologist Intern; Petroleum Geologist; ~~Textile Chemist I and II~~; Integrated Waste Management Specialist and Senior Integrated Waste Management Specialist; and Pest Prevention Assistant I, II, and III (Various Projects).

Or

(b) The salary range of the "to" class is any amount higher than that of the "from" class, provided that:

- (1) It is not a promotional salary range; and
- (2) The two classes are in different class series unless the board specifically provides for transfer within a series; and
- (3) There is no class in the "to" series that is exactly the same in salary as the "from" class; and
- (4) The "to" class is the class in its series that is immediately higher in pay than the "from" class; and
- (5) The transfer does not preclude a future transfer that is part of the established upward mobility pattern through which the employee is moving; and
- (6) The two classes do not contain positions that have a supervisory-subordinate relationship under the appointing power making the transfer; and
- (7) For any class assigned to State Bargaining Unit 10, excluding the following listed classes, the employee shall meet the minimum education requirement as identified in the respective class specification: Energy Analyst, Energy Resources Specialist I and II; Hazardous Materials Specialist, Associate Hazardous Materials Specialist and Senior Hazardous Materials Specialist (Technical); Associate Energy Specialist (Efficiency) and Energy Commission Specialist I, II, and III (Efficiency); Associate Energy Specialist (Forecasting) and Energy Commission Specialist I, II, and III (Forecasting); Associate Energy Specialist (Technology Evaluation and Development) and Energy Commission Specialist I, II, and III (Technology Evaluation and Development); Assistant and Associate Geologist and Senior Geologist (Specialist); Associate Geophysicist; Health and Safety Program Specialist I, II, and III; ~~Land and Water Use Analyst and Associate Land and Water Use Analyst;~~ Assistant and Associate Meteorologist; Senior Meteorologist; Water Resources; Microbiologist Intern; Petroleum Geologist; ~~Textile Chemist I and II;~~ Integrated Waste Management Specialist and Senior Integrated Waste Management Specialist; and Pest Prevention Assistant I, II, and III (Various Projects).

In applying these criteria, separate salary ranges within a class shall be treated as if they were separate classes when a board resolution allows salary ranges other than the lowest range for the class to be used for salary comparison purposes.

NOTE: Authority cited: Sections 18211, 18213 and 18701, Government Code.
Reference: Section 19050.4, Government Code.

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(Cal; 02/07/06)

MEMO TO : STATE PERSONNEL BOARD

FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division

SUBJECT : Staff Calendar Items for Board Information

NONE PRESENTED